

10/618,111
July 18th, 2005
After Final Reply in response to Final of 05-19-2005

Via Facsimile

Remarks

In response to the 05-19-05 final office action, applicant respectfully traverses the examiner's rejections of claims 1-19. Two issues appear to be at the heart of the disagreement and applicant address them in turn.

Examiner's citing of the omnibus phrase in Cook '183 as being valid and irrefutable is a mischaracterization of the overly-broad statement. Cook '183, in column 12 line 16 states "any commercially available epoxy resin can be used to prepare the (mixture)."

Certainly any commercially available resin can't be substituted, and Cook '183 simply can't be enabling for every commercially available resin just by making this broad statement. And *even if* one were to assume that Cook '183 can be combined with Smith '984, the combination would produce a resin without the crystalline structure of the LCT resin presently claims (and without the thermal properties limitations added to the claims in the last amendment that reflected this). "The disclosure in an assertedly anticipating reference must provide an enabling disclosure of the desired subject matter; mere naming or description of the subject matter is insufficient, if it cannot be produced without undue experimentation." *Elan Pharm., Inc. v. Mayo Foundation*, MPEP 2121.01.

In addition to that, the LCT were not commercially available at the time of Cook '183 and therefore, even if the omnibus assertion in Cook '183 was accurate at the time it was made, it still does not apply to LCT resins.

The other issue at hand is the argument that the Examiner has characterized the LCT resin of Smith '984 contrary to how the inventor of the '984 reference has himself characterized it. The inventor of the '984 references has (in an affidavit) sworn that the mixing of particles into the described LCT resin would tend to, and be expected to, disrupt the crystalline structure and ruin the resin, especially the thermal properties. The inventor further swore (¶ 6 of the 02-24-05 132 affidavit) that experiments were performed and that, in fact, these assertions of deleterious effects played out as shown by loss of the birefringence properties of the LCT epoxy.

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Despite this, the Examiner has substituted his own judgment in for what the Smith '984 reference is capable of (alone or in combination with Cook '183) and has flow out decided not to believe the inventor's assertions. On page 10, last full paragraph of the 05-19-05 final office action, the Examiner says that "there is no factual evidence to support these assertions." However, the 1.132 affidavit from the '984 inventor is factual evidence.

Applicant also points out parallels between the present situation and *Wiggins* as described in MPEP 2121.02.

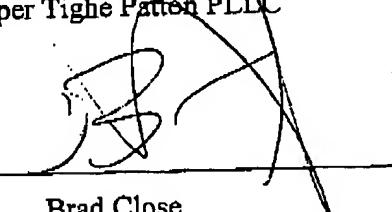
Lastly, in the final paragraph of page 10 of the 05-19-05 final office action, the Examiner draws a connection between Fig. 10 of Cook '183 and figures on page 9 of the pending application. However, these two chemicals are not the same, for example, there are additional atoms/groups between the phenyl groups of Cook '183 and not in applicants invention. These differences have enormous impact on cure reactivities of the neighboring oxirane groups and the expected and actual results.

Respectfully submitted,

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by


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